

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DARREN HARRIS,

Plaintiff,

v.

KIM, et al.,

Defendants.

Case No. 1:05-cv-00003-AWI-SKO (PC)

ORDER DENYING MOTION FOR LEAVE
TO ENGAGE IN DISCOVERY WITH NON-
PARTY CLARK

(Doc. 161)

Plaintiff Darren Harris ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 3, 2005. This action is proceeding on Plaintiff's fourth amended complaint against Defendants Olivarria, Williams, and Kim for violation of the Eighth Amendment, and against Defendants Olivarria and Lowden for violation of the First Amendment. (Doc. 87.) This action was previously scheduled for trial on April 21, 2015, but on September 25, 2014, based Defendant Kim's deployment to Afghanistan, the Court vacated the trial date and stayed the case pursuant to 50 App. U.S.C. § 522(b), Servicemembers Civil Relief Act of 2003. (Doc. 150.) Pursuant to the stay order, Defendants Olivarria, Williams, Lowden, and Kim ("Defendants") are required to file a status report on or before June 1, 2015.

On November 17, 2014, Plaintiff filed a motion for leave to engage in discovery with "Defendant Clark," of whom he became aware when Clark's name was included on Defendants

1 Olivarria, Williams, Kim, and Lowden's recent filing and proof of service.¹ Clark was named as a
2 defendant in Plaintiff's original complaint and subsequently waived service of the summons and
3 complaint. (Docs. 1, 32.) However, Clark was not named as a defendant in the fourth amended
4 complaint, which is the operative pleading in this action. (Doc. 64.)

5 Accordingly, Plaintiff's motion for leave to engage in discovery with Clark is HEREBY
6 DENIED, with prejudice, and Defendants' counsel shall correct the administrative error that led to
7 the misidentification of Clark as a party in recent documents.

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10 IT IS SO ORDERED.

11 Dated: April 7, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff acknowledges awareness of the party and claim identification set forth in the Court's multiple orders, and he does not recall who Clark is or whether Clark is a party. (Doc. 161.)